



Virginia
Regulatory
Town Hall

Emergency Regulation
Agency Background Document

Agency Name:	Dept. of Medical Assistance Services; 12 VAC 30
VAC Chapter Number:	141
Regulation Title:	Family Access to Medical Insurance Security Plan
Action Title:	FAMIS
Date:	6/11/2001; NEED GOVERNOR APPROVAL BY: 7/31/2001

Section 9-6.14:4.1(C)(5) of the Administrative Process Act allows for the adoption of emergency regulations. Please refer to the APA, Executive Order Twenty-Four (98), and the *Virginia Register Form, Style and Procedure Manual* for more information and other materials required to be submitted in the emergency regulation submission package.

Emergency Preamble

Please provide a statement that the emergency regulation is necessary and provide detail of the nature of the emergency. Section 9-6.14:4.1(C)(5) of the Administrative Process Act states that an "emergency situation" means: (i) a situation involving an imminent threat to public health or safety; or (ii) a situation in which Virginia statutory law, the Virginia appropriation act, or federal law requires that a regulation shall be effective in 280 days or less from its enactment, or in which federal regulation requires a regulation to take effect no later than 280 days from its effective date. The statement should also identify that the regulation is not otherwise exempt under the provisions of § 9-6.14:4.1(C)(4).

Please include a brief summary of the emergency action. There is no need to state each provision or amendment.

The Code § 9-6.14:4.1(C)(5) provides for regulations which an agency finds are necessitated by an emergency situation. To enable the Director of the Department of Medical Assistance Services (DMAS), in lieu of the Board of Medical Assistance Services, to comply with the 2000 Acts of Assembly Chapters 824 and 848, he must take this adoption action. This issue qualifies as an emergency regulation as provided for in § 9-6.14:4.1(C)(5)(ii), because Virginia statutory law requires this promulgation action as an emergency. As such, this regulation may be adopted without public comment with the prior approval of the Governor.

The 2000 Acts of Assembly, Chapters 824 and 848 cl. 5 provides: "that a seamless transition between the Children's Medical Security Insurance Plan and the implementation of the Family Access to Medical Insurance Security Plan shall be deemed to be a public emergency situation pursuant to § 9-6.14:4.1; therefore, to meet this emergency situation, the Board shall promulgate emergency regulations to implement this act." Therefore, this emergency regulation is necessary in accordance with Code of Virginia § 32.1-351.

Since this emergency regulation will be effective for no more than 12 months and the Director wishes to continue regulating the subject entities, the Department is also requesting approval to initiate the Administrative Process Act Article 2 procedures with the submission of the Notice of Intended Regulatory Action to the Registrar.

Basis

Please identify the state and/or federal source of legal authority to promulgate the emergency regulation. The discussion of this emergency statutory authority should: 1) describe its scope; and 2) include a brief statement relating the content of the statutory authority to the specific regulation. Full citations of legal authority and web site addresses, if available for locating the text of the cited authority, should be provided.

Please provide a statement that the Office of the Attorney General has certified that the agency has the statutory authority to promulgate the emergency regulation and that it comports with applicable state and/or federal law.

This emergency regulation promulgates necessary guidelines for the implementation and administration of the Family Access to Medical Insurance Security Plan established by Code of Virginia § 32.1-351.

Substance

Please detail any changes, other than strictly editorial changes, that would be implemented. Please outline new substantive provisions, all substantive changes to existing sections, or both where appropriate. Please provide a cross-walk which includes citations to the specific sections of an existing regulation being amended and explain the consequences of the proposed changes. The statement should set forth the specific reasons the agency has determined that the proposed regulatory action would be essential to protect the health, safety or welfare of Virginians. The statement should also delineate any potential issues that may need to be addressed as a permanent final regulation is developed.

In accordance with § 32.1-351 of the COV, as amended, this emergency regulation changes the name of the Virginia Children's Medical Security Insurance Plan to the Family Access to Medical Insurance Security Plan (FAMIS).

The FAMIS Plan is expected to increase participation of children over Virginia's current Children's Medical Security Insurance Plan by increasing the maximum income eligibility levels from 185 percent to 200 percent of the Federal Poverty Income Guidelines (See 12 VAC 30-141-100).

FAMIS also expands the types of medical benefits covered for program participants to include well-child and preventive services, medical, dental, vision, mental health, and substance abuse services, and physical therapy, occupational therapy, speech-language pathology, and skilled nursing services for special education students in addition to the standard inpatient hospital, physician, laboratory and x-ray, and prescription drug services, for example. (See 12 VAC 30-140-200 through 12 VAC 30-140-440).

FAMIS also establishes a premium assistance program. This provision permits participants who have access to employer-sponsored health insurance coverage, as defined in § 32.1-351.1, to voluntarily enroll in their employers' health plans. DMAS or its designee will then make premium payments to such employers' plans on behalf of these eligible participants if the DMAS or its designee determines that such enrollment is cost-effective, as defined in § 32.1-351.1. The FAMIS Plan is to provide for health benefits that are not included in the employer-sponsored health insurance benefit plan through supplemental insurance equivalent to the comprehensive health care benefits provided above. (See 12 VAC 30-141-160).

FAMIS also incorporates cost sharing requirements for all recipients (See 120 VAC 30-141-150). Specifically, FAMIS Plan participants whose incomes are above 150 percent of the Federal Poverty Income Guidelines will be required to participate in cost-sharing by means of monthly premium payments as well as copayments. The annual aggregate cost-sharing for all eligible children in a family at or above 150 percent of the federal poverty level shall not exceed five percent of the family's gross income. Cost-sharing for all eligible children in a family between 100 percent and 150 percent of federal poverty level will be limited to nominal copayments and the annual aggregate cost-sharing will not exceed 2.5 percent of such family's gross income. Furthermore, cost-sharing will not be applied to specific preventive health care services such as well child care and age-appropriate childhood immunizations.

FAMIS also creates a central processing unit (CPU) for the administration of the program to include responding to inquiries, distributing applications and program information, and receiving and processing applications for program eligibility (See 120 VAC 30-141-141).

Alternatives

Please describe the specific alternatives that were considered and the rationale used by the agency to select the least burdensome or intrusive method to meet the essential purpose of the action.

The various programmatic alternatives for this child health plan were considered during the legislative session and are a matter of that public record.

Family Impact Statement

Please provide a preliminary analysis of the potential impact of the emergency action on the institution of the family and family stability including to what extent the action will: 1) strengthen or erode the authority and rights of parents in the education, nurturing, and supervision of their children; 2) encourage or discourage economic self-sufficiency, self-pride, and the assumption of responsibility for oneself, one's spouse, and one's children and/or elderly parents; 3) strengthen or erode the marital commitment; and 4) increase or decrease disposable family income.

This regulatory action will strengthen the institution of the family by providing comprehensive health care insurance, at nominal fees, to individuals who are uninsured. It will encourage wellness and well-being for families in the Commonwealth who currently do not have health

care benefits. In addition, it makes the benefits received by current participants in Virginia's Children's Medical Security Insurance Plan more comprehensive.

This regulatory action will not have any negative affects on the institution of the family or family stability. It will not increase or decrease disposable family income or erode the marital commitment. It will not discourage economic self-sufficiency, self-pride, nor the assumption of family responsibilities.